

FILED

2010 NOV 16 PM 2:55

**IN THE UNITED STATE DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE**

BRANCH BANKING AND TRUST
COMPANY,

Plaintiff,

v.

315 UNION STREET HOLDINGS,
LLC, UNION STREET PLAZA
OPERATIONS, LLC, and
PRUDENTIAL MORTGAGE
CAPITAL FUNDING, LLC

Defendants.

NO.: 10-1758-II

**DEFENDANT 315 UNION STREET HOLDINGS, LLC'S AND UNION
STREET PLAZA OPERATIONS, LLC'S NOTICE OF REMOVAL TO
UNITED STATES DISTRICT COURT**

Defendants 315 Union Street Holdings, LLC and Union Street Plaza Operations, LLC (collectively "Union Street") hereby file their Notice of Removal pursuant to 28 U.S.C. §§ 1332(a), 1441(b) and 1446, respectfully showing this Court the following:

1.

On November 2, 2010, Plaintiff Branch Banking and Trust Company (the "Bank") filed a "Verified Complaint for Appointment of Receiver Pending Foreclosure" (the "Verified Complaint") against Union Street and Prudential

Mortgage Capital Funding, LLC in the Chancery Court for Davidson County, Tennessee, Twentieth Judicial District, said complaint being styled *Branch Banking and Trust Company v. 315 Union Street Holdings, LLC, Union Street Plaza Operations, LLC, and Prudential Mortgage Capital Funding, LLC*, No. 10-1758-II (the “State Court Action”).

2.

Pursuant to 28 U.S.C. § 1446(a), Union attaches true and correct copies of all process, pleadings and orders served upon it in the State Court Action as follows:

Exhibit “A”:	Summons
Exhibit “B”:	Verified Complaint for Appointment of Receiver Pending Foreclosure
Exhibit “C”:	Restraining Order and Notice of Hearing on Motion for Entry of Receivership Order
Exhibit “D”:	Motion for Entry of Receivership Order
Exhibit “E”:	Affidavit of Katie Goodman
Exhibit “F”:	Proposed Order Establishing Receivership
Exhibit “G”:	Motion for Restraining Order
Exhibit “H”:	Affidavit of Erika R. Barnes in Support of Ex Parte Motion for Restraining Order

3.

Union Street was served with the Bank's Verified Complaint and related filings on November 5, 2010. As a result, it has not yet filed its answer or any other responsive pleading in the State Court Action. In filing this Notice of Removal, Union Street expressly reserves, and does not waive, all defenses and counterclaims that may be available in this action.

4.

This Court has original jurisdiction over this civil action pursuant to 28 U.S.C. § 1332(a), and this civil action may be removed to this Court pursuant to 28 U.S.C. § 1441. This action involves a dispute between citizens of North Carolina, Florida, Georgia and Delaware. The Verified Complaint alleges that Union Street is indebted to the Bank in the amount of \$18,700,000.00 and seeks a receiver to, among other things, operate Union Street's commercial property. Given the nature of the Bank's claims and the relief sought in its Verified Complaint, the amount in controversy, exclusive of interest and costs, exceeds \$75,000.00.

5.

The Bank is a North Carolina state bank with its principal place of business in Charlotte, North Carolina.

6.

315 Union Street Holdings, LLC is a Tennessee limited liability company with its principal place of business in Nashville, Tennessee. All of 315 Union Street Holdings, LLC's members reside in Florida and Georgia.

7.

Union Street Plaza Operations, LLC is a Tennessee limited liability company with its principal place of business in Nashville, Tennessee. All of Union Street Plaza Operations, LLC, LLC's members reside in Florida and Georgia.

8.

Prudential Mortgage Capital Funding, LLC is a Delaware limited liability company with its principal place of business in Newark, New Jersey. Upon information and belief, Prudential's members do not reside in North Carolina, Georgia, or Florida.

9.

This Notice of Removal is timely filed pursuant to U.S.C. § 1446(b) because it is filed within thirty (30) days of Union Street's receipt of a copy of the Verified Complaint, which is the first copy of the initial pleading setting forth the claims for relief upon which the Bank's action is based.

10.

Written notice of filing of this Notice of Removal will be given to counsel for the Bank. Pursuant to § 1446(d), a copy of this Notice of Removal will be filed with the clerk of the Chancery Court for Davidson County, Tennessee, Twentieth Judicial District, the court in which the State Court Action was filed.

WHEREFORE, Union Street respectfully requests that the above-captioned civil action currently pending in the Chancery Court for Davidson County, Tennessee be removed therefrom and proceed in this Court as an action duly removed.

This 16th day of November, 2010

/s/ Bob Lynch, Jr.
Bob Lynch, Jr. (BPR#6298)
Washington Square, Suite 316
222 Second Avenue North
Nashville, TN 37201
(615) 255-2888

F. Skip Sugarman
ssugarman@bloom-law.com
Georgia Bar No. 690773
Stephanie A. Everett
severett@bloom-law.com
Georgia Bar No. 253075
THE BLOOM LAW FIRM, LLP
977 Ponce de Leon Avenue
Atlanta, GA 30306

Attorneys for 315 Union Street Holdings,
LLC and Union Street Plaza Operations,
LLC

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE**

BRANCH BANKING AND TRUST
COMPANY,

Plaintiff,

v.

315 UNION STREET HOLDINGS,
LLC, UNION STREET PLAZA
OPERATIONS, LLC, and
PRUDENTIAL MORTGAGE
CAPITAL FUNDING, LLC

Defendants.

NO.: 10-1758-II

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have electronically filed DEFENDANTS 315 UNION STREET HOLDING, LLC AND UNION STREET PLAZA OPERATIONS, LLC'S NOTICE OF REMOVAL TO UNITED STATES DISTRICT COURT using the CM/ECF system which will automatically send email notification of such filing to the following attorneys of record:

Erika R. Barnes (ebarnes@stites.com)
Allison A. Wiemer (allison.wiemer@stites.com)
Stites & Harbison, PLLC

401 Commerce Street, Suite 800
Nashville, Tennessee 37219-2376

This 16th day of November, 2010.

/b/ Bob Lynch, Jr.
Bob Lynch, Jr.